IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 7381 OF 2004.

M/s.Geetanjaoi Saree Emporium. .... Petitioners.

versu.

Vijaykumar Laxman Vaidhya
(since deceased through LRs)
1a. Smt.Jyotsna Vijaykumar Vaidhya
and others. .... Respondents.

Shri S.A.Sawant for the Petitioner/s.

Shri Surel Shah for the Respondents Nos.1(a) to 1(c).

CORAM : ABHAY S.OKA, J.

DATED : 9th December, 2004.

P.C.:

1. By the impugned order the Application made by the Petitioners for amendment of the Written Statement has been rejected. The suit filed by the original Plaintiff is of the year 1986 which was decided in the year 2001. The Petitioners/Defendants have filed this Application for amendment on 16th December 2003 in the Appeal filed in the year 2001. Therefore, I am not inclined to entertain this Writ Petition under Article 227 of the Constitution of India. Hence the petition is rejected with no order as to costs.

2. It will always be open for the Petitioners to raise all permissible contentions in the pending appeal notwithstanding the observations made by the Appellate Court in the impugned order. In case the Appeal is

finally decided against the Petitioners, while challenging the final order in Appeal by filing appropriate proceedings, the Petitioners can always challenge the legality and validity of the impugned order dated 18th June 2004.

3. Parties and the concerned Court to act on the authenticated copy of this order.

Judge.